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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,490	04/12/2001	Maciej Kubiczek	108347-00005	6264

4372 7590 04/27/2005

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EXAMINER	
PAN, DANIEL H	

ART UNIT	PAPER NUMBER
2183	

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/806,490	KUBICZEK ET AL.	
	Examiner	Art Unit	
	Daniel Pan	2183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) *1-15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 November 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Claims 1-15 have been canceled. Claims 16-30 remain for examination.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16-17,20, 21-27, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lindwer (6,298,434).

4. AS to the newly amended feature of "Virtual Machine bytecodes ...translated into a sequence of respective 8-bit microprocessor instructions", the scope of the amended feature is not distinguishable from the original scope of the claim because the respective 8-bit microprocessor instructions were understood to be in a sequence.

5. As to the amended "fetched instruction", amended scope remains the same as the original scope because the instruction, as recited in the original claim , is passed to the central processing unit for execution, therefore, the instruction has to be fetched in order to execute.

6. As to the newly amended feature of claim 20, claim 20 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lindwer in view of Evoy (5,937,193). However, since claim 20 now has been replaced by the feature of previously presented claim 18, it is now rejected under the same reason as set forth in the paragraph 27 of the last Office action. Since the limitations remain same except the claim number, the same reasoning applied to claim 18 is now applicable to claim 20. The discussions will not be repeated herein. Applicant is kindly directed to the paragraph 27 of the previous Office action for the reasons now applied to claim 20.

7. Claims 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindwer in view of Evoy (5,937,193).

8. Claim 18 was rejected under 35 U.S.C. 102(e) as being anticipated by Lindwer (6,298,434) in the previous Office action, but since the amended claim 18 now is replaced by the limitation of previously presented claim 19, claim 18 now is being rejected under the same reasons in paragraph # 38 of the last Office action. Since the limitations remain the same except the claim number, the same reasoning applied to claim 19 is now applicable to claim 18. The reasons of obviousness will not be repeated herein. Applicant is kindly directed to the paragraph 38 of the previous Office action for the reasons now applied to claim 18.

9. As to newly amended feature of claim 19, claim 19 is replaced by the feature of previously presented claim 20, therefore, it is rejected by the same reason as set forth in paragraph 39 of the last office action. Since the limitations remain the same except the claim number, the same reasoning applied to claim 20 is now applicable to claim 19.

10. The reasons of obviousness will not be repeated herein. Applicant is kindly directed to the paragraph 39 of the previous Office action for the reasons now applied to claim 19.

11. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindwer in view of Lee (4,937,783) and further in view of Evoy (5,937,193)).

12. The rejections to claims 1-17, 21-30 are maintained and incorporated by reference the last office action on 02/24/04.

13. The response filed by applicant on 07/26/04 has been fully considered but is not persuasive.

14. In the remarks, applicant argued that :

a) the prior art does not teach the translated 8 bit instructions, or the microprocessor for executing virtual machine bytecodes which have been translated into respective 8-bit microinstructions;

b) JVM instructions do have a type in respect of whether they correspond to fixed or user defined operations; the bit is not present in JVM instructions.

15. As to a) above, Applicant only recites "...have been translated into a sequence of 8-bit microprocessor instructions" (e.g. see claim 16, preamble). No specific type of translation of the 8-bit instructions has been reflected into the claim. Therefore, it is read as any type of translation in general. Lindwer taught a Java Virtual Machine instruction in a bycode format (see col.4, lines 42-43). Therefore, the bycode itself was in a translated format. For example, the Java high level language needs to be complied into the bycode format. Therefore, the bycodes are in the form which have already been translated by the compiler. Furthermore, Lindwer taught his bycodes were translated into native instructions used by microprocessor (see the specific type of microprocessors in col.4, lines 36-39, see the conversion of virtual machine instruction into native instructions in col.4, lines 59-64). Therefore, translation of the virtual machine instruction into the microprocessor instructions was already taught by Lindwer. As far as the 8-bit length of the microprocessor instructions, since Lindwer taught clearly that the length of the native instructions (i.e. the microprocessor instructions) may vary considerably for various virtual instructions (see col.6, lines 33-36), 8-bit microprocessor instruction was also applicable in Lindwer.

16. As to b) above, Lindwer did not just teach JVM alone, it included translation of the JVM into the native instructions (see Summary of Invention). This is illustrated in figure 4 by decision block 42. The special virtual machine instructions are user-defined instructions because they point to a subroutine of native instructions in the instruction memory, which are set there by the compiler, or user-defined operation. The other virtual machine instructions are predefined and fixed because a hardware converter is used to translate the instructions directly (see also col. 8, lines 42-48 for the user defined operation, a subroutine is called based on a jump address of the instruction) .

Applicant's amendment (to claims 18-20, for example, claim 18 was rejected under "102e" under Lindwer , but now is being rejected under "103" as being obvious in view of Evoy (5,937,193)) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pan whose telephone number is 703 305 9696, or the new number 571 272 4172. The examiner can normally be reached on M-F from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chan, can be reached on 703 305 9712, or the new number 571 272 4162. The fax phone number for the organization where this application or proceeding is assigned is 703 306 5404.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

21 Century Strategic Plan

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